Amendments to the Drawings:

Replacement drawings for Figs. 2a, 2b and 3 are attached hereto.

REMARKS

Favorable consideration of the present application is respectfully requested. Claims 1-5 and 10 are currently pending. Claims 1, 3, 4 and 10 have been amended and Claims 6-9 have been withdrawn in response to a restriction requirement.

In response to a restriction requirement, Group I, Claims 1-5 and 10 were elected and Group II, Claims 6-9 were verbally withdrawn without traverse by Applicants' representative and that withdrawal without traverse is hereby affirmed.

Applicants have submitted concurrently herewith Replacement Drawing sheets for Figs. 2a, 2b and 3. Upon reviewing the drawings against the description, it became apparent to Applicants that Figs. 2a, 2b and 3 were unclear. Accordingly, the Replacement Drawing sheets attached hereto are being filed to clarify the drawings. Specifically, in Figs. 2a, 2b and 3, the peelable lid structure is not cut out of the lidding material 6 until step D (see, specification, page 8, lines 7-9). Therefore, Figs. 2a, 2b and 3 have been corrected to now show the outline of the peelable lid structure on the lidding material 6 between steps A-C as a dashed line. In addition, Figs. 2a, 2b and 3 now show the strip of patch material 7 and the patch 8 as a dashed/shaded area on the lidding material 6 between steps A-C (see, specification, page 8, lines 9-11).

Claims 1, 3, 4 and 10 have been objected to due to language informalities due to the use of "and/or" and appropriate correction has been required. Applicants have amended the claims to overcome the objection and respectfully request the Examiner to formally withdraw the objection to Claims 1, 3, 4 and 10.

Claims 1-5 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent Number 4,757,914 to Roth et al. (hereinafter "Roth") in view of United States Patent Number 6,277,478 to Kurita et al. (hereinafter "Kurita") and further

in view of United States Patent Number 4,834,259 to Kubis et al. (hereinafter "Kubis"). Applicants have amended Claim 1 to more clearly define the invention and to overcome the rejection.

Regarding Claim 1, Claim 1 has been amended to recite, *inter alia*,

> "A peelable lid structure for a container, the peelable lid structure including; a barrier layer for preventing the passage of fluids; and a tab extending from a centre panel of the peelable lid structure for removing the peelable lid structure from the container to allow access to the container contents; in which the barrier layer extends from the centre panel into the tab and includes less than 20 microns thickness of aluminum;"

As the Examiner admits, the pull tab 12 disclosed in Roth projects from a corner of closure 10, which makes it particularly vulnerable to impact damage due to its exposed position, and that the aluminum barrier is not less than 20 microns thick. In fact, Roth only discloses a single thickness of aluminum, 0.0018 inches (46 microns). Contrary to the Examiner's assertion, it would not be obvious to combine the aluminum foil layer from Kurita with Roth, since Kurita is nonanalogous to Roth as it merely deals with a "container closure system with an **inner seal in a cap**" (Column 1, lines 7-12) (emphasis added by Applicants). Specifically, although Kurita includes an inner aluminum barrier layer of from 5.5 to 20 microns, it is for use under a cap and it does not disclose a tab with the aluminum barrier layer extending into the tab of the peelable lid structure as, recited in Claim 1, which is used without a cap. In contrast, Roth discloses a closure for a plastic container, which includes an aluminum layer that "must be sufficiently thick to have induced therein sufficient heat to melt the [inner bond forming] layer 24 and also the upper surface of the container 14 to provide the required heat seal between the closure and the container 14. It has been found that a thickness on the order of 0.0018 inch is most economical." (Column 2, lines 46-51.) This is unlike Kurita in which a high

frequency is used to melt the hot melt only adhesive layer 8 so that the seal cover hermetically seals the container mouth (column 3, lines 42-44) and the aluminum layer is not disclosed to play any part in the sealing process. In addition, when Kurita is considered in its entirety, it fails to teach or suggest anything with respect to the thickness of a barrier layer in a "peelable lid structure including; a barrier layer for preventing the passage of fluids; and a tab extending from a centre panel of the peelable lid structure for removing the peelable lid structure from the container to allow access to the container contents; in which the barrier layer extends from the centre panel into the tab and includes less than 20 microns thickness of aluminum," as recited in Claim 1. Therefore, contrary to the Examiner's assertion, and absent hindsight on the Examiner's part, it would not have been obvious, and one of skill in the art would not have been motivated, to modify the aluminum barrier layer in the Roth peelable membrane to have a thickness less than 20 microns. This is especially true in light of the reason given by the Examiner for Kurita's use of a thin aluminum layer being related to preventing injury (page 7, first full paragraph; see also, Kurita column 4, lines 16-19), and Kurita also states that the thin layer of aluminum "is easy to be incinerated, which causes no environmental disruption and provides great cost reduction in waste treatment (column 4, lines 19-22). Neither have anything to do with the reason given in Roth for the aluminum layer to be "sufficiently thick to have induced therein sufficient heat to melt the layer 24 and also the upper surface of the container 14 to provide the required heat seal between the closure and the container 14. It has been found that a thickness on the order of 0.0018 inch is most economical." (Column 2, lines 46-51.)

The Examiner also admits that neither Roth nor Kurita disclose that the tab is folded over the centre panel and secured in the folded position. However, contrary to the

Examiner's assertion, it would not have been obvious to combine Kubis with Roth and Kurita for several reasons. First, Roth discloses a non-folded pull tab 12 that includes a thickness of aluminum (46 microns) that, as discussed above is above the 20 microns recited in Claim 1, and that is of sufficient thickness that if the tab were folded, the aluminum would have sufficient thickness to retain itself in position without the need to be secured in position. In other words, the aluminum layer in Roth has sufficient deadfold to retain itself in the folded position. Second, unlike the tab 12 in Roth, for the pull tab 18 in Kubis to "be retained in an out-of-the way position," it must be "secured to the lid 16 by a rupturable spot heat bond 30" (column 2, lines 19-22). No explanation of the significance or otherwise of the lack of deadfold within the material of Kubis is provided. Third, Kubis does not disclose or teach using any barrier layer within the lid. Therefore, it would not have been obvious to combine Roth, Kurita and Kubis as asserted by the Examiner. Regardless, and assuming, *arguendo*, that the combination of Roth and Kubis could be made, neither Roth nor Kubis disclose or suggest an aluminum layer of less than 20 microns extending from the centre panel into the tab, as recited in Claim 1. Accordingly, Applicants believe the rejection of Claim 1 is overcome and respectfully request that the Examiner formally withdraw the rejection.

Regarding Claims 2-4 and 10, for at least the reasons given above for Claim 1, the rejection of Claims 2-4 and 10 is also believed to be overcome and Claims 2-4 and 10 are now allowable. Therefore, Applicants respectfully request that the Examiner formally withdraw the rejection of Claims 2-4 and 10.

Regarding Claim 5, in addition to the reasons given above for Claim 1, which alone overcome the rejection of Claim 5, the rejection is also incorrect. Specifically, it appears that the Examiner has misinterpreted the language in Claim 5 related to "**a patch**,

an area of which is exposed by a hole in the tab or centre panel respectively, and the tab is secured in the folded position by the adhesive or heat sealing to the exposed area of **patch**." (Emphasis added by Applicants.) As seen in Figs. 2a and 2b, a patch 8 is shown as a separate element affixed behind tab 3. Neither Roth, nor Kurita, nor Kubis disclose or suggest a "patch" of any kind, and they certainly do not disclose or suggest "a patch, an area of which is exposed by a hole in the tab or centre panel respectively, and the tab is secured in the folded position by the adhesive or heat sealing to the exposed area of patch," as recited in Claim 5. Therefore, the rejection of Claim 5 is also believed to be overcome and Applicants respectfully request that the Examiner formally withdraw the rejection of Claim 5.

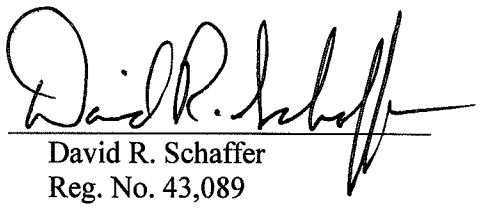
Therefore, Applicants now believe that the Section 103(a) rejection of Claims 1-5 and 10 is now overcome and that Claims 1-5 and 10 are allowable. Accordingly, Applicants respectfully request that the Examiner formally withdraw the Section 103 rejection of and issue a Notice of Allowance for Claims 1-5 and 10.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4515-16173US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

Date: March 24, 2009

By: 
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